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Lester Snow, Executive Director
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Subject: Comments on Draft Program EIR/S on CALFED Bay-Delta Program Preferred Program Alternative and Technical Appendices

Dear Mr. Snow:

I am a professional urban planner and a writer.

Having studied the Draft PEIR/S and its supporting technical appendices since a year ago as they developed, I feel they represent the most thoughtful and careful effort to plan for California's water future in our state's history. This planning process is unprecedented in its accounting for environmental concerns. This planning process has national implications as well, certainly for other western states, but also for other regions where large estuarine and riparian ecosystems are at risk from continuing pollution and development encroachment. CalFED's staff and constituent agencies are to be commended for being integrative and comprehensive in the program scope, for bringing diverse and competing interests to the planning process, and for carefully balancing ecological and economic concerns.

In particular, CalFED is to be commended for the "solution principles" that were developed for use as ground rules for viable and workable actions to be included in the CalFED Bay-Delta Program's implementation phase. Noble as these principles are, I am skeptical that they can be mutually adhered to by the process's parties because of the depth of conflicts over water here.

Historically, major water developers and water users in California have taken water and land from ecosystems, wildlife, and fish that are native to California and left them to languish, and vulnerable to displacement by nonnative species. This is also true for family farms and farm communities which draw their wealth from the land. This history notwithstanding, it is still in everyone's interest -- including agricultural corporations and the state's growing cities -- to make peace with natural California by being just to stressed species and communities that rely on water and land directly for their livelihoods. The kind of environmental justice California needs now would address this reality. The CalFED Bay-Delta Program and its solution principles do not.

My comments focus primarily on inadequacies in the project description itself, and with major concerns regarding:

- water transfer framework
- surface storage
- water use efficiency program

- the peripheral canal
- ecosystem restoration program
- watershed management program
- implementation plan

Water Transfers Framework

The water transfers framework is fundamentally flawed because it does not satisfactorily address community and environmental impacts that can result from water sales. I have attached two article I wrote on transfers for insertion into the public record.

The framework spends tremendous amounts of verbiage on how a functioning water market could be made to "work." Yet creating a water market is at bottom an insane idea, certainly not an ecological one[1]. The reason is that a functioning water market will redirect water supplies away from their relatively broad distribution now, and will concentrate their usage among the wealthiest farms and cities in California who can afford to get as much as they can. The water transfer framework contains no regulatory framework to prevent this even greater irrationality from occurring, when compared with the current irrationalities that now exist. A water market is utopian, and if ever fully realized would surely turn the Sacramento Valley into an even larger desert than the Owens Valley now is, as water ranchers fall over themselves rushing to get in line as "willing sellers."

Even if CalFED's transfer framework falls short of establishing a functioning market, but provides for a relatively low level of transactions year in and year out, there are still substantial problems with relying on transfers for increasing reliability of supplies. The quest to create reliable and secure supplies through transfers may greatly destabilize rural communities throughout the Central Valley. Numerous transfers have occurred in the 1990s and 1980s; each one is different. A number of them have generated unemployment, lost revenues to local governments, and enriched water rights holders at the same time. In this way, water transfers on an increased scale may generate tremendous windfalls for those holding water rights, and would politically and ethically be a gift of public funds to private land owners, even though it would no longer be "illegal." Subjecting rural communities to the vagaries of landholders' opportunities to cash as a matter of public policy is, well, anathema to the public interest for those communities, and should be so for all conscientious Californians as well.

CalFED should face this ethical issue in water transfers squarely to avoid the specter of a grand desertification of the Sacramento Valley. The CalFED Bay-Delta Program should reorient the water transfers framework to encourage intra-basin transfers within limits and subject extra-basin transfers to full

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[1]The definition I employ of a water market is one in which a substantial volume of transactions occur between buyers and sellers that establishes a going market price for water. The water transfers framework employs no apparent definition of what a "market" actually is, and carelessly blurs the distinctions between "transfers" and "market transfers" leading to a conceptual muddle about what is likely to occur in a water "market" in California as CalFED Bay-Delta Program implementation.

disclosure, public notice, and careful public scrutiny. Transfers should be seen as policy tools, not simply as extensions of land owner property rights to reap windfalls.

The water transfer framework should also strengthen and clearly define what a "basin" is for the purpose of providing predefined and consistent regulation of transfers.

Interim CalFED staff work on water transfers explicitly stated that a functioning water market will require surface storage, both to provide the volume of water needed to make a "going price" for water possible, and to have the engineering flexibility to make water releases and other technical manipulations workable for the water "market." In other words, to make the water market utopia work, CalFED believes it needs additional reservoirs to enlarge the "pie" of water supplies, and that they need the peripheral canal to install efficient plumbing for marketing purposes. This clear and obvious linkage between creating a water market and building new dams and reservoirs (as well as the Peripheral Canal -- see below) is ignored by the current version of the Water Transfer Framework, and the project description in the Program EIR/S. This makes the PEIR/S project description fundamentally inadequate by not disclosing these causal relations and evaluating their potential impacts on the various regions of California, including, but not limited to, the Bay-Delta.

The water transfers framework, in this light, appears to move in a policy direction that contradicts California's area of origins statute, without providing adequate community and environmental protections.

Surface Storage and Water Use Efficiency

Without question, dams and reservoirs are the most flexible forms of water storage ever developed by modern societies. At the same time, they are terribly wasteful in California where large bodies of water are exposed to sunshine's evaporative powers for upwards of 6 to 9 months out of every year. In contrast, groundwater "banks" (or aquifers) are quite effective at resisting evaporation. Of course, they recharge more slowly than reservoirs when runoff and recharge happens.

Given the quantity of stored surface water supplies in California, if we add more surface storage we will increase the surface area of water that is exposed to evaporation, a wasteful deployment of both water and public capital. CalFED should no longer plan for additional storage, but instead should concentrate on developing aggressive and innovative water conservation programs in collaboration with all local agricultural and urban water districts throughout California so that our existing supplies are used as efficiently as possible.

I'm not for efficiency for efficiency's sake, but since Californians care passionately about their physical and natural environments, most would gladly conserve water if it means no more valleys drowned and habitats needlessly sacrificed for patterns of water use that could be still improved. With a substantial share of the funds that are being spent by CalFED, DWR and the

U.S. Bureau of Reclamation to study new storage projects, thousands of ultra-low flush toilets and low-flow showerheads could be installed as conservation retrofits throughout urban California. That it has not yet occurred is a failure of leadership; to ignore conservation's remaining potential would condone environmental degradation and injustice.

Multiply that by the $70 million that is about to be spent on the Integrated Storage Investigation, and apply it to conservation investments, and there are probably a couple of million acre-feet to be saved in any one year statewide; the cumulative conservation of water and environments would repay our children in buckets, including the children of people who migrate to California over the next 40 years.

The experience of Los Angeles with conservation, prodded for decades by the Mono Lake Committee (MLC), must be spread throughout California. We have excellent conservation and efficiency examples; we need to generalize them throughout the state. MLC's collaboration with community-based organizations throughout the Los Angeles basin to conserve water also created jobs and stimulated production and innovation of water conservation technology. CalFED is missing a grand opportunity to improve water use efficiency statewide and avoid building new dams.

The Peripheral Canal

I am aware that the "isolated conveyance facility" is not the old Peripheral Canal; and that the latter-day canal's design would be smaller than its predecessor. But it would still divert water from the Sacramento River at Hood, sluicing it around the "periphery" of the delta in a "canal." Hence it is still a peripheral canal.

I am also aware that the peripheral canal is not part of the preferred alternative. However, I would just note for the record that this PEIR/S contains program level evaluations of the impacts of the peripheral canal that indicate strongly that the canal would be very detrimental to Bay-Delta water quality because of the loss of freshwater flows through Delta channels, allowing sea water (and its indicator, the X2) to penetrate deeper and deeper into the estuary. The ecological, economic, and recreational impacts of greater seawater intrusion on the Delta would be substantial.

Inclusion in the preferred alternative inclusion of the peripheral canal's "on-ramp" to ease through-delta conveyance for exports will essentially be a self-fulfilling prophecy, leading to a full peripheral canal. The CalFED water quality, watershed management, and water use efficiency programs are currently too weak to improve water quality and quantity sufficiently to eliminate the need for the peripheral canal. Because of these program weaknesses, the preferred alternative is set up to fail, creating the requisite justification for the peripheral canal.

The peripheral canal would of course greatly increase the flexibility and reliability of providing high quality water for Delta export, but it would also greatly increase the technical aspects of a functioning water market. As I stated above, I oppose water marketing, and anything that makes a water

market more feasible, like the peripheral canal, I oppose.

On the basis of this PEIR/S I urge CalFED to remove the peripheral canal from consideration. California will never need a peripheral canal so long as water use efficiency, watershed management, and water quality regulation is pursued relentlessly and aggressively. If the quality of existing supplies is improved at their sources, that will help satisfy San Joaquin Valley and southern California water contractors, and increase the security and reliability of water supplies for all Californians.

Ecosystem Restoration and Watershed Management Programs

As Martha Davis, co-chair of the Watershed Management Work Group, remarked to the Bay Delta Advisory Council at BDAC's Red Bluff meeting last week, there needs to be much greater integration of watershed management practices with other CalFED common programs, particularly ecosystem restoration. The Watershed Work Group's presentations to BDAC demonstrated that the potential of watershed management programs to improve water quality in the Bay-Delta ecosystem is untested, but enormous. One of the most important facets of watershed management potential is its reinforcement of the sustainability of CalFED ecosystem restoration projects. The land use, sediment control, and water quality practices will help protect ecosystem restoration investments over the long term.

But I believe that watershed management concerns must move beyond the necessary issues that are currently addressed by these work groups. Right now they include habitat protection, and development of indicators of habitat stress, as well as restoration investments and development of new land management practices. They should also include farmland protection and containment of urban sprawl. Farmland protection is essential for the maintenance of productive soil resources and increasingly wildlife-friendly agricultural land use practices in California. Farmland protection can also include protection of groundwater recharge areas.

Arresting urban sprawl is of critical importance in watershed management, and is utterly, and I believe fatally, ignored by the CalFED Bay-Delta Program Draft PEIR/S. If California cities cannot rein in their consumption of open space and farm land, then the state's water use patterns will not be contained -- and we then will have forced ourselves to build more dams and canals perhaps. Thus, watershed management should be far more broadly construed by CalFED to include policy recommendations to the State Legislature that limit the geographical expansion of California cities, promote incentives and provide investments in "infill development" on vacant or underutilized lands already within municipal boundaries. I have included a second article ("Arresting Development") on urban sprawl for insertion into the public record that addresses this issue.

Even from the standpoint of CalFED's water transfers and surface storage proposals, the expansion of watershed management makes sense. Sprawling cities characterized by large lot-size subdivisions means potentially far greater costs of landscape irrigation to consumers, and far more water demand per capita than more compact, even dense urban development patterns would

need. By limiting sprawl using watershed management principles in Central Valley cities and cities rimming the Bay-Delta regions, the increase in impervious surfaces and habitat losses brought by development can be slowed or even reversed.

I realize that even in the absence of CalFED urban sprawl has yet to be contained. My point is that CalFED is missing an opportunity to promote watershed management strategies that see cities as part of watersheds and highlight the fastest growing component of future water demand in California, our growing cities. Yet our cities grow in cancerous patterns, destroying habitat unnecessarily and wastefully demanding water for irrigating urban landscapes where natural landscapes had previously needed none. Watershed management, including containment of urban sprawl and farmland protection, is a powerful means of limiting the need for new surface storage, the peripheral canal, and water transfers.

One other facet of watershed management and ecosystem restoration is ignored by CalFED's Program and its PEIR/S: the greater San Francisco Bay from San Pablo Bay at Point Pinole south to Alviso and San Jose. This component of the Bay-Delta estuary is completely ignored by CalFED, even when it is obvious that only during times of vast flood flows such as what occurred in 1997 and 1998 does delta outflow reach into southern San Francisco Bay.

Creek diversions for storage by Bay cities, and deteriorated creek watersheds, combined with extensive urbanization contribute to the Bay's demise. But it is just as true that Delta exports reduce Delta outflows year-round which obviously affect the quality of Bay waters. Water markets, increased surface storage, and a peripheral canal all would harm the Bay beyond its current condition by withdrawing still more flood flows and exporting flows that prehistorically used to circulate throughout the Bay. These CalFED proposals would undermine any gains that non-point source pollution regulation might possibly achieve in the inner Bay cities.

The draft PEIR/S is therefore deficient because it also ignores the environmental injustice and public health consequences that a Bay starved of freshwater flows forces on urban working class and communities of color who rely on Bay fish for protein in their diets. Currently the San Francisco Bay Regional Water Quality Control Board warns people to eat no more than two fish caught from the Bay in a month; for pregnant women, just one fish per month. The draft PEIR/S ignores this reality; the project description and the common programs exclude the greater San Francisco Bay from its problem definition despite its clear hydrodynamic, economic, and public health relationships to Delta outflows and exports. But CalFED should address it, since Delta exports are implicated in the Bay's declining health. Such a planning process is long overdue here.

Unfortunately, the CalFED Bay-Delta Program and its PEIR/S on the preferred alternative ignore these watershed management possibilities, and are therefore deficient and inadequate.

Implementation Plan

Because there are so many fundamental flaws in CalFED's Bay-Delta Program, and despite its substantial efforts to be comprehensive and innovative in creating and understanding linkages among common programs (and between common programs and water management strategies) I am deeply concerned that implementation moves ahead toward a record of decision and notice of determination without these flaws being corrected.

Of course, at root CalFED's flaws reflect an underlying bias in the CalFED Bay-Delta Program (given its institutional agencies' participation in water exports) toward expanding exports to the corporate agricultural companies of the San Joaquin Valley and sprawling cities along the east and south sides of San Francisco Bay, and south of the Tehachapis. Moreover, the flaws I identify here do not surprise me.

But to ignore the flaws will undermine ecosystem restoration, continue the demise of San Francisco Bay, and ruin rural Central Valley communities because powerful agencies and their economic constituencies insist on ignoring the limits to water exporting that brought us the Racanelli decision in 1986.

Moreover, CalFED proposes that the state spend $5.2 billion over 30 years to restructure water law for water markets and plunder terrestrial habitats for surface storage that would "save" the Delta from conflicts, while maintaining a stupefying refusal to face larger realities -- including, but not limited to water issues -- about how California accommodates the population that is projected to arrive here over that time. Compact cities, farmland protection, watershed management, and greatly strengthened water quality and efficiency programs are vital to meeting this looming reality. Additional dams and canals are not needed, and, if our state's and CalFED's leadership commits itself to these other methods, I believe they will never be needed.

As part of implementation of CalFED, the CalFED governance structure should be opened up to include watershed representatives locally elected to CalFED's policy advisory group, with CalFED agency seats forming a minority of voting seats in a system of proportional representation. The geographic domain of the "solutions" should include Bay Area creek restoration watershed and statewide networks of environmental justice groups. These would be important first steps in creating the truly democratic and watershed-based emphasis CalFED needs.

Thank you for the opportunity to comment on the Draft PEIR/S on the CalFED Bay-Delta Program preferred alternative.

Sincerely,

Tim Stroshane

Attachments: "Water Transfers and the Imperfect Water Industry in California"
"Where the Money Flows: The Green Scheme for Delta Waters"
"Arresting Development"

cc: Cherokee Watershed Group
Southern California Watershed Alliance
Butte Environmental Council
Berkeley Ecology Center
Terrain Magazine
Sonoma Ecology Center
Urban Creeks Council
Shasta Tehama Bioregional Council
Clean Water Action
Environmental Water Caucus
Anderson Valley Advertiser
Pacific Institute for Development, Environment, and Security
Alex Hildebrand
Californians and the Land
Sierra Nevada Alliance
Center for Political Ecology
Friends of the River